IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.651 OF 2006

In

CHAMBER SUMMONS NO.1365 OF 2005

In

SUIT NO.468 OF 1999

Smt.Prerana A. Thakore : Appellant

(Orig. Applicant)

V/s.

ICICI Limited & Ors. : Respondents

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Mr.Pradeep Sancheti i/b. M/s.Thakordas Madgaonkar for the appellant.

Mr.A.S.Kamat i/b. M/s.M.K. Ambalal & Co., for respondent No.1.

Ms Swati Deshpande i/b. M/s.M.S. Bodhanwala & Co., for respondent No.3.

Mr.Luckyraj Indorkar i/b. M/s.Shaunak Satpure & Co., for respondent No.4.

Ms Shalini Chuni i/b. M/s.Consulta Juris for respondent No.5.

Mr.Sanjay Jain i/b. M/s.Purnanand & Co., for respondent No.9.

Mr.Y.R.Naik for respondent No.10.

Mr.D.V.Deokar, 1st Asstt. to Court Receiver (present).

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CORAM : R.M.LODHA & S.A.BOBDE,JJ.

DATE : SEPTEMBER 4, 2006.

P.C.

1. We heard Mr.Pradeep Sancheti, the counsel for the appellant.

2. The learned Chamber Judge, by the impugned order, dismissed the Chamber Summons taken out by the appellant praying therein the following reliefs:-

> "(a) That the proposed release of the machinery to Respondent No.2 by the Respondent No.1 as per the direction contained in letter dated 25th August, 2005 addressed by the Respondent No.1 to all the concerned parties on (sic) October, 2005 be stayed;
>
> (b) That the Respondent No.1 be directed to re-verify the documents of ownership from the Balance Sheet etc. of the Company (as more particularly stated in letters dated 6th July, 2005 and 25th August, 2005) before releasing the said machinery to Respondent No.2 and pass a speaking order thereon;"

3. Though the impugned order is not very satisfactory, it does not call for interference in appeal, for the reasons that we indicate immediately hereinafter. The present appellant took out Chamber Summons No.1570 of 2004 for impleadment in the suit to avoid multiplicity of proceedings. The said Chamber Summons admittedly came to be dismissed on 19.10.2004. The order refusing leave to the present appellant to be impleaded as party-defendant or to intervene in the matter has attained finality is

not in dispute. The whole case of the appellant in earlier Chamber Summons No.1570 of 2004 was that by virtue of section 141 of the Indian Contract Act, 1872, the appellant being the guarantor has acquired right in the securities furnished by defendeant No.1 and if those securities are allowed to be transferred or sold, the appellant's right in the securities under section 141 of the Indian Contract Act would be seriously affected. However, the contention did not find favour with the Chamber Judge and, as already noticed above, the Chamber Summons for impleadment and intervention taken out by the appellant came to be dismissed on 19.10.2004. Having already failed in her application for impleadment and intervention in the suit, the present application made by the appellant by means of Chamber Summons No.1365 of 2005 for staying the direction contained in the communication dated 25.8.2005 addressed by respondent No.1 to the concerned parties in the month of October 2005 is wholly misconceived and the appellant is not entitled to any relief by means of the Chamber Summons being not a party to the proceedings. Any claim by the defendant No.7 with regard to the plant and machinery said to have been furnished by the defendant No.1 as security cannot be the subject-matter of controversy wherein the appellant may be permitted to intervene when her earlier application for impleadment and intervention was directly rejected by

the Court on 19.10.2004.

4. As a matter of fact, the Chamber Summons taken out by the appellant for the reliefs noticed above is not only misconceived, but is an abuse of the process of the Court, in the light of the earlier order dated 19.10.2004 wherein her application for impleadment and intervention came to be rejected directly by the Court.

5. Appeal does not deserve to be admitted.

6. Dismissed in limine.

R.M. LODHA, J.

S.A. BOBDE, J.